

**Proposed Amendments to Other Local Rules
Submitted to Fifth Circuit**

Rule 1009-1. Amendments of Voluntary Petitions, Lists, Schedules and Statements.

(a) General right to amend.

(1) If at any time after the clerk issues notice of the meeting of creditors under section 341 in a case under any chapter under title 11, the debtor amends Schedule D, E or F and/or the creditor matrix to add any creditors, the following procedures shall apply:

(A) The debtor shall pay the prescribed filing fee;

(B) The debtor shall serve upon such additional creditors by first class mail:

(i) A copy of the first notice of meeting of creditors under section 341 with the debtor's full social security account number shown thereon;

(ii) A notice informing the creditors that they have 60 days within which to file a complaint objecting to discharge under section 727 or section 1141 or to the dischargeability of any debt under section 523(c); to file a motion objecting to discharge under section 727 or section 1328; or to file a motion to seek an extension of time for filing a complaint or motion objecting to discharge, unless a longer period of time is provided by Fed. R. Bankr. P. 4004, 4007 or 9006;

(iii) A notice informing the creditors that they have 21 days to request the United States Trustee to schedule an adjourned section 341 meeting of creditors; and

(iv) Notice of Additional Time to File Proof of Claim.

(a) In a case filed under Chapter 7, 12 or 13, the debtor shall serve upon such additional creditors by first class mail a notice informing the creditors of the creditor's right to file a proof of claim within ~~70-90~~ days from the date of the notice.

(b) In a case filed under Chapter 11, if the debtor or trustee in a chapter 11 case amends the debtor's schedules to change the amount, nature, classification, or characterization of a debt owing to a creditor after a bar date for the filing of proofs of claim has been set, the debtor or trustee shall serve notice of the amendment to the creditor within 14 days of its filing and shall serve notice of the creditor's right to file a proof of claim by the bar date or 30 days from the date of the notice, whichever is later. The debtor or trustee shall file a certificate of service of the notice with the clerk.

(C) The debtor shall file a certificate of service with the clerk and provide an amended creditor matrix to the clerk in such format as the clerk's office may direct.

Amended to conform to amendment of Federal Rule 3002(c) on December 1, 2017.

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Rule 3002-1. Filing Proof of Claim or Interest.

(c) Time for filing.

As provided in Miss. Bankr. L.R. 1009-1(a)(1)(B)(iv)(a), in a case filed under Chapter 7, 12 or 13, where the debtor amends Schedule D, ~~E~~ or E/F and/or the creditor matrix to add any creditors, the debtor shall serve upon such additional creditors by first class mail a notice informing the creditors of the creditor's right to file a proof of claim within 70 ~~90~~ days from the date of the notice.

Amended to conform to amendment of Federal Rule 3002(c) on December 1, 2017, and amendment to correct for reclassification of forms.

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Rule 3007-1. Objections to Claims.

(a) Objections to Claims.

(1) Minimum information for objection to claims; requirements.

An objection to a claim shall include, at a minimum, the following information:

- (A) the name of claimant;
- (B) the claim number as indicated on the claims docket maintained by the clerk;
- (C) the claim amount;
- (D) the basis for the objection; and
- (E) the amount of the claim, if any, to which there is no objection.

(2) Notice; hearing.

Objections to claims are contested matters and may be considered after notice and opportunity for a hearing as provided by Miss. Bankr. L.R. 9013-1(d). The objecting party shall file and serve ~~mail or otherwise deliver~~ a copy of the objection with notice of a 30 day response period ~~the hearing thereon~~ to the claimant, the debtor or debtor in possession, and the trustee ~~at least 30 days prior to the hearing as required by Fed. R. Bankr. P. 3007~~. If a timely response to a claims objection is filed, a hearing on the claims objection will be conducted in accordance with Fed. R. Bankr. P. 3007.

Amended to conform to amendment of Federal Rule 3007 on December 1, 2017.

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Rule 4001-1. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements.

(a) Relief from stay; prohibiting or conditioning the use, sale, or lease of property.

(1) Motion.

(A) Service.

A motion pursuant to section 362(d) and Fed. R. Bankr. P. 4001(a)(1) seeking relief from the automatic stay shall be served in the manner provided for by Fed. R. Bankr. P.s 9014 and 7004. Additionally, unless otherwise ordered by the court, such motion shall be served on any entity having a known lien on the subject property (excluding ad valorem taxing authorities) or that will be affected by the relief requested in the motion; on the United States Trustee; on the case trustee; on any chapter 11 creditors' committee (or its agent); on the creditors listed pursuant to Fed. R. Bankr. P. 1007(d) (only in the absence of duly appointed creditors' committees); and on any person or entity who has filed a request for the receipt of all notices in the case or proceeding and who has served such requests on the trustee or debtor in possession.

(B) Supporting documentation.

When a motion seeking relief from the automatic stay is filed, the moving party shall include in the motion and/or attach to the motion the following:

- (i) A description of the subject property;
- (ii) A complete and legible copy of movant's security agreements and security instruments which establish a valid lien encumbering the subject property;
- (iii) The value of the subject property and the basis of the valuation; and,
- (iv) The amount of the outstanding indebtedness secured by each lien encumbering the subject property as reflected by the schedules of the debtor(s) or such other amount as may be known by the movant.

(C) Initial 4001-1 conference.

The attorneys for movant or any objecting parties shall confer with respect to the issues raised by the motion in advance of the hearing for the purpose of determining whether a consensual order may be entered and/or for the purpose of stipulating to relevant facts, such as the value of the property and the extent and validity of any security instrument.

(D) Agreed order.

**Proposed Amendments to Other Local Rules
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(i) If the moving creditor, the debtor(s) and the trustee agree as to the relief to be granted and if relief from the automatic stay as well as abandonment is not contested, an agreed order signed by the debtor(s) or the attorney for the debtor(s), the trustee and the moving creditor shall be submitted to the court for consideration no later than 14 days after the date scheduled for hearing on the subject motion. Parties to whom the order or judgment has been submitted shall promptly sign it or promptly contact the party who drafted it to express any objection to the form of the proposed order or judgment. The parties shall attempt to resolve any differences in the form of the order or judgment before submitting competing orders or judgments to the court.

(ii) As provided by Fed. R. Bankr. P. 4001(d)(4), the court may direct that the procedures prescribed by Fed. R. Bankr. P. 4001(d)(1)-(3) shall not apply and the agreement may be approved without further notice if the court determines that a motion made pursuant to Fed. R. Bankr. P. 4001(a)-(c) was sufficient to afford reasonable notice of the material provisions of the agreement and an opportunity for a hearing; otherwise, notice of the proposed agreed order shall be given to the appropriate creditors and parties in interest.

(E) Order Affecting Real Property.

Any Order affecting real property shall either incorporate the legal description of the real property in the body of the order itself, or attach a legal description of the real property as an exhibit to the order. [This paragraph shall not apply to an Order to confirm a chapter 13 plan.](#)

Provides exception to local rule requiring legal description of real property in all orders that affect real property. Confirmation orders for chapter 13 plans affect real property will not be required to have legal description.

Proposed Amendments to Local Rule 3015-1 (Chapter 13 Plan)
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Rule 3015-1. Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case.

~~(b) Chapter 13 Plan.~~

~~All chapter 13 plans filed by or on or behalf of the debtor shall be typewritten.~~

(d) Notice

In all chapter 13 cases, the attorney for the debtor (or the debtor) shall serve a copy of the plan and a notice on ~~all creditors~~, the trustee, the United States Trustee, and all creditors ~~other parties in interest~~ when the plan is filed with the court. The notice shall include the ~~an~~ objection deadline as announced in the Notice of Chapter 13 Bankruptcy Case (Official Form 309I). The notice shall substantially comply with the format prescribed by the Clerk and made available on the Court's website. If a chapter 13 plan includes a Motion for Valuation of Collateral pursuant to Fed. R. Bankr. P. 3012 or a Motion to Avoid Lien pursuant to Fed. R. Bankr. P. 4003, the attorney for the debtor (or the debtor) shall serve a copy of the plan and a notice on affected creditors in the manner provided by Fed. R. Bankr. P. 7004 for service of a summons and complaint. The attorney for the debtor (or the debtor) shall file the notice and a certificate of service with the court that includes a copy of the plan and a record of the parties served.

(g) Modification of plan after confirmation.

(1) Requirement for amended Schedules I and J.

If a debtor in a chapter 12 or a chapter 13 case files a request to modify a confirmed plan pursuant to sections 1229 or 1329 based in whole or in part upon a change in the amount of the debtor's income or expenses, the debtor shall file amended Schedules I and J evidencing such change in financial circumstances contemporaneously with the Notice of Modification.

(2) Secured claims timely filed after plan confirmation.

If a proof of claim, which claims a security interest in the property of the debtor, is timely filed after confirmation of the plan, but is not provided for in the plan, the claim can only be paid through the confirmed plan following a request for modification and order, as provided for in Fed. R. Bankr. P. 3015(g). Nothing contained herein shall control the treatment of the claim in the confirmed plan.

Proposed Amendments to Local Rule 3015-1 (Chapter 13 Plan)
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Rule 3015.1-1. Local Form for Chapter 13 Plan and Motions for Valuation and Lien Avoidance

All chapter 13 plans filed by or on behalf of the debtor shall be filed using the local form authorized by the judges of the Northern and Southern Districts of Mississippi under the authority of Fed. R. Bankr. P 3015.1. The local form chapter 13 plan for the Northern and Southern Districts of Mississippi is included as Appendix A to these Uniform Local Bankruptcy Rules.

All information entered on the local form chapter 13 plan shall be in a typewritten format.

From time to time, the judges of the Northern and Southern Districts of Mississippi may change the format or make typographical corrections (non-substantive changes) to the local form chapter 13 plan in Appendix A. Any such non-substantive changes will be reported to registered attorney filers via email. If the judges seek to make substantive changes to the local form chapter 13 plan, such proposed changes will be advertised for public comment and submitted to the Fifth Circuit Judicial Council for final approval as an amendment to the local rules.

Amendments to conform local bankruptcy rules to new amendments in Federal Rules of Bankruptcy Procedure that will become effective December 1, 2017:

- *Under amended Fed. R. Bankr. P. 3015(c), the new Official Form Chapter 13 Plan must be used unless a Local Form Chapter 13 Plan has been adopted in accordance with new Fed. R. Bankr. P. 3015.1*
- *The bankruptcy judges of the Northern and Southern propose to adopt a new Local Form Chapter 13 Plan.*